Consultation on revision of the EU Emission Trading System (EU ETS) Directive

Fields marked with * are mandatory.

Introduction

On 24 October 2014, the European Council agreed on the 2030 framework for climate and energy[1], including a binding domestic target for reducing greenhouse gas (GHG) emissions of at least 40% in 2030 as compared to 1990. To meet this target, the European Council agreed that the emissions in the EU Emission Trading System should be reduced, compared to 2005, by 43%. A reformed EU ETS remains the main instrument to achieve the emission reduction target. The cap will decline based on an annual linear reduction factor of 2.2% (instead of the current 1.74%) from 2021 onwards, to achieve the necessary emission reductions in the EU ETS. The European Council furthermore gave strategic guidance on several issues regarding the implementation of the emission reduction target, namely free allocation to industry, the establishment of a modernisation and an innovation fund, optional free allocation of allowances to modernise electricity generation in some Member States.

The strategic guidance given by European leaders on these elements will be translated into a legislative proposal to revise the EU ETS for the period post-2020. This constitutes an important part of the work on the achievement of a resilient Energy Union with a forward looking climate change policy, which has been identified as a key policy area in President Juncker's political guidelines for the new Commission.

The purpose of the present stakeholder consultation is to gather stakeholders' views on these elements. This consultation focuses on issues not yet addressed in the consultations recently conducted for the 2030 Impact Assessment[2], the Impact Assessment for the carbon leakage list for 2015-2019[3] and the consultation conducted on post-2020 carbon leakage provisions[4].

In order to take stock of the EU ETS (established by Directive 2003/87/EC) as a policy measure, this consultation also contains questions concerning the general evaluation of this policy measure. The questionnaire consists of 7 chapters. You are invited to answer questions on the chapters which are relevant to you.

0. Registration

0.1What is your profile?*

- businesses
- Small and medium enterprise

[X] Trade association representing businesses

- SME business organisation
- Government institution/regulatory authority
- Academic/research institution
- Non-governmental organisation
- Citizen
- Other

0.2Please enter the name of your business/organisation/association etc.:*

Wirtschaftsvereinigung Stahl (German Steel Federation)

0.3Please enter your contact details (address, telephone, email):*

Abteilung Energie und Klima
Französische Straße 8
D-10117 Berlin
+49 30 2325546-11
roderik.hoemann@wvstahl.de
henning.reichenbacher@wvstahl.de

0.6If relevant, please state if the sector/industry you represent falls under the scope of the EU ETS:*

[X] yes

- no
- not relevant

Production of Iron and Steel

0.7If relevant, please state what sector your represent:*

[X] Energy-intensive industry

- ( ) Energy sector
- ( ) Other

Please specify:

0.8The results of this stakeholder consultation will be published unless stated otherwise. Can we include your replies in the publication?*

[X] yes

- ( ) no
- ( ) partially

Please state which given information is sensitive and cannot be disclosed:

0.9Register ID number (if you/your organisation is registered in the Transparency register):

75755621888-61

1. Free allocation and addressing the risk of carbon leakage

The European Council has concluded that free allocation to prevent the risk of carbon leakage should not expire as foreseen in the current legislation, but should continue also after 2020 as long as there are no comparable efforts to reduce emissions in other major economies.

Extensive stakeholder consultation was already carried out on the post-2020 carbon leakage provisions, as well as on aspects related to innovation support. The process included three full-day stakeholder meetings (June, July and September 2014) and a written consultation conducted for 12 weeks (8 May – 31 July, 2014). The written consultation covered 23 multiple choice questions with space for motivations, and a question allowing respondents to bring up any other issue they felt was important or insufficiently covered.

The documents and minutes of the meetings, as well as the submissions and the analysis thereof in the case of the written consultation, are available on the Commission website.

Information from the stakeholder meetings:

http://ec.europa.eu/clima/events/articles/0090_en.htm

http://ec.europa.eu/clima/events/articles/0095_en.htm

http://ec.europa.eu/clima/events/articles/0097_en.htm

Replies and summary of the written consultation:

http://ec.europa.eu/clima/consultations/articles/0023_en.htm

The results of the above mentioned public consultation are being taken into account in the preparation of the legislative proposal. In order to reduce the administrative burden for stakeholders and the Commission, the present consultation focuses on issues not already covered in this recently finalised public consultation. Respondents are nevertheless invited to add to the replies provided in the earlier consultations if deemed necessary in the light of the conclusions of the European Council in this area.

1.1 The European Council called for a periodic revision of benchmarks in line with technological progress. How could this be best achieved in your view and, in particular, which data could be used to this end? How frequently should benchmarks be updated, keeping in mind administrative feasibility?

4,500 character(s) maximum

–

In the current EU ETS, the steel industry faces an allocation based on benchmarks, which are below the technical achievable level. Additionally the allocation is significantly reduced through the cross-sectoral correction factor. This adds costs even for the most efficient producers and thereby discourages efficient investments and growth. This approach does not protect against carbon leakage. Therefore, the modified approach should propose the use of technical reachable benchmarks. Realistic benchmark levels should reflect the state of the art, the options to switch technologies and the penetration of a given efficiency technology within EU industry sector and be comparable to benchmarks in other schemes globally. Realistic benchmarks should provide long-term certainty and predictability.
To reflect this, the benchmarking principle laid down in the current EU ETS (allocation based on the emissions of the 10% best installations) should in general be continued, while dropping the correction factor. Furthermore, as far as the steel benchmarks are concerned, a clarification should be implemented in the ETS directive that electricity made from waste gases is fully exempted from any shortening of the benchmarks.
The 10% best performers - for instance for hot metal with a benchmark including a full exemption of electricity made from waste gas from any shortening of the calculation - have to get fully free allocation.

–

1.2 The European Council has defined guiding principles for the development of post-2020 free allocation rules which provide inter alia that "both direct and indirect costs will be taken into account, in line with the EU state aid rules" and that "the most efficient installations in these sectors should not face undue carbon costs leading to carbon leakage" while "incentives for industry to innovate will be fully preserved and administrative complexity will not be increased" and while "ensuring affordable energy prices". Do you have views how these principles should be reflected in the future free allocation rules?

4,500 character(s) maximum

The ability of EU industry to further reduce GHG emissions requires a new political environment that takes industry policy seriously and allows investments into innovation and efficiency improvements. European Industry needs a level playing field vis-à-vis its competitors in third countries. The high costs that will result from the proposed EU targets until 2030 – combined with the uncertainty regarding the future carbon leakage provisions - are an obstacle for investments and will most likely limit investments in efficiency. That's why the EU reduction targets are only acceptable if also the EU target for a growing industry share is guaranteed. Furthermore, industry needs a clear political commitment that EU climate policy – including targets – will be reviewed if by 2020 no global level playing field is achieved.

As long as the ambitious EU Climate policy is not mirrored by comparable international efforts with a comparable burden for the major competitors, the EU needs to provide for measures that minimize the unilateral cost burden for EU industry. These measures must be predictable and stable. The following changes will at least partially tackle the competitiveness disadvantages the EU industry faces under ETS: The system of free allocation should be revised to a fully benchmark based system without further reduction/correction factors and based on actual production volumes.

This is important from an economic and also from an environmental point of view: the EU emission reduction targets should not be achieved through carbon or investment leakage. Enhanced free allocation would be an adequate instrument to address the risk of carbon leakage. However, the faults made when implementing EU ETS must be corrected in order to optimise its effectiveness. Free allocation should give a positive stimulation for good performers and enable bad performers to improve. To that aim, free allocation post-2020 must be based on a system, which has the following main components: (1) realistic benchmark levels, based on the emissions of the 10 % best performers; **taking fully into account the unavoidability of waste gases.** (2) the actual activity level (= production volume); (3) no correction factors; 4) full compensation of direct and indirect CO2-costs.
So it is ensured that the most efficient installations should have no direct and indirect costs to avoid carbon leakage. This method guarantees that future climate protection efforts take place market economy based.

There is much discussion on **carbon leakage**. It is not realistic to expect companies to ship their Equipment and installations overseas. Carbon leakage is a gradual process in which EU companies are not able to justify investments in their domestic plants that maintain long-term prospects. A good proxy is the ratio of investments to depreciation. Its serious worsening is proven by studies such as from the Institut der deutschen Wirtschaft (IW) or Deutsche Bank Research. Hence robust and clear commitments to continued carbon leakage protection are an indisputable must.

1.3 Should free allocation be given from 2021 to 2030 to compensate those carbon costs which sectors pass through to customers? How could free allocation be best determined in order to avoid windfall profits?

4,500 character(s) maximum

In the steel industry carbon costs cannot be passed to customers, because it is competing on the global level. To guarantee a kind of level-playing-field, free allocation post-2020 must be based on a system, which has the following main components: (1) realistic benchmark levels, based on the emissions of the 10%most efficient installations; for hot metal this means that electricity made from waste gases is fully exempted from any shortening of this benchmark; (2) the actual activity level (= production volume); (3) no correction factors; 4) full compensation of direct and indirect CO2-costs. So it is ensured that the most efficient installations should have no direct and indirect costs to avoid carbon leakage. This method guarantees that future climate protection efforts take place market driven.

1.4 Are there any complementary aspects you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?

4,500 character(s) maximum

With regards to 1.3. it is important to add that in the light of the European Council conclusions the implementation of an MSR will lead or enlarge this market distortions within an international competition by a dramatic impact on the electricity price for energy intensive industries through a much higher carbon price.
This situation could be even worse with an early introduction of the MSR and the transfer of the backloaded allowances to the MSR, as is currently proposed by a number of MEPs and Member States. Many analysts have estimated the evolution of the carbon price over time, assessing the different proposals actually under discussion. Although the proposals may deliver different price profiles, they will result in a carbon price in the range of 50 EUR/t in 2030 or even higher according for example to Thomson Reuters and Point Carbon.
In particular, the transition years 2018-2024 will be critical; the combination of an early introduction of the MSR in 2018 with the transfer of the backloaded allowances to the MSR will lead to a carbon price which would be more than two and a half times (260%) higher compared to the proposal of the EU Commission introducing the MSR in 2021. This would result in turn in:

- a steep increase in electricity prices as CO2 costs are systematically passed on to electricity prices by utilities (up to 20€/MWh electricity price increase)
- an increase in direct CO2 compliance costs for EU ETS in the same proportion.

Such a huge cost increase is non affordable for the European energy intensive industries. Long-term investment management is virtually impossible for a company, given the increasingly unpredictable and costly regulatory environment. These consequences were ignored in the Impact Assessment to MSR.

In addition to that, sticking to any correction factor and unrealistic benchmarks with subtracting allocations for electricity from waste gases, combined with historical production levels as basis for free allocation also in the 4th trading period will lead to a higher risk of carbon leakage. Due to these conditions a consistent descent of allocation to a level of 40% below the benchmark performance leads automatically to a massive shortage whose infilling by technological measures until 2030 is not realistic.

2. Innovation fund

The European Council has concluded that 400 million allowances in 2021 to 2030 should be dedicated for setting up an innovation fund to support demonstration projects of innovative renewable energy technologies, carbon capture and storage (CCS) as well as low carbon innovation in industrial sectors. To make this fund operational, a legal basis has to be created in the EU ETS Directive while further implementation modalities can be set out in secondary legislation. The work can build on the experience with the existing "NER300" programme which made available 300 million allowances for CCS and innovative renewable energy technologies[1].

With regard to establishing a legal basis for the innovation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

2.1 Do you see reasons to modify the existing modalities applied in the first two calls of the NER300? Are there any modalities governing the NER 300 programme which could be simplified in the design of the innovation fund? If you see the need for changes, please be specific what aspects you would like to see changed and why.

Historic experience with the NER 300 is, that it was quite cumbersome and did not generate the expected results, but rather sometimes added financial help to projects already sufficiently subsidized. There is for example no shortage on support for renewables. Future funds should also be enhanced on carbon recycling and reuse. Legislation and rules such as the Regulation on the Monitoring and Reporting should be adjusted accordingly.

Adequate frameworks for application are required since such projects are by nature complex and time consuming. Given the length of the trading period it should be seriously discussed whether the funds should be distributed along the length of the period respectively whether unused funds should be reoffered at a later stage.

A general question to address is the mechanism underlying the financing through the NER 300. Certificates are sold at their market value to generate money to support deployment. Hence the available finance depends critically on the certificate price. This results in calls for high certificate prices to obtain more funds, which on the other side would harm industrial competitiveness and lead to carbon leakage, with negative impact on investment and innovation activities. However in an ideal world we would have done our R&D research and development long before we had hit critically shortages of CO2 emissions allowances. As a consequence we can avoid high CO2 prices and the connected detrimental effects on the industry without defaulting on climate change goals at all. Here again the general misconception of preferably high CO2 prices distorts the decisions.

2.2 Do you consider that for the extended scope of supporting low-carbon innovation in industrial sectors the modalities should be the same as for CCS and innovative renewable energy technologies or is certain tailoring needed, e.g. pre-defined amounts, specific selection criteria? If possible, please provide specific examples of tailored modalities.

4,500 character(s) maximum

The development of new technologies follows a pre-defined path (from development to testing, deployment and commercialisation) where different types and levels of support are needed. It is important to adequately define the appropriateness of each type of aid. Support is necessary at each stage in order to overcome the market barriers and failures specific to each stage. We see a lack of support for large scale pilot projects in industries and would wish to have the EU more active here.

2.3 Are there any complementary aspects regarding innovation funding you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?

Technologies in industry to meet the 2050 reduction targets are not yet available or even invented. It is therefore crucial that R&D is strengthened. Equally we must remain open for new ideas and approaches. Hence a premature fixture on certain technologies is clearly to avoid.

As already pointed out, the EU ETS has been primarily designed as a tool to reduce emissions in the most cost effective manner and should not be considered as the innovation driver. The EU ETS should not support selected technologies or innovations i. e. support schemes for industrial innovation should not be financed from the EU ETS.

3. Modernisation fund

The European Council has concluded that 2% of the total EU ETS allowances in 2021 to 2030 should be dedicated to address the particularly high investment needs for Member States with GDP per capita below 60% of the EU average. The aim is to improve energy efficiency and to modernise the energy systems of the benefitting Member States. The fund should be managed by the beneficiary Member States, with the involvement of the European Investment Bank (EIB) in the selection of projects. To make this fund operational, a legal basis has to be created (in the EU ETS Directive), while further implementation modalities can be set out in secondary legislation.

With regard to establishing a legal basis for the modernisation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

3.1 Implementation of the modernization fund requires a governance structure: What is the right balance between the responsibilities of eligible Member States, the EIB and other institutions to ensure an effective and transparent management?

It must be safeguarded that no competitive distortion occurs and that funds are used as efficient and effective as possible. This requires a control mechanism involving either directly or through the institutions of the EU all member states and not just the beneficiaries.

4,500 character(s) maximum

3.2 Regarding the investments, what types of projects should be financed by the modernisation fund to ensure the attainment of its goals? Should certain types of projects be ineligible for support?

4,500 character(s) maximum

It must be clarified that this fund is aimed at improving the situation in Member States in need of catch up the EU average. It must not be distorted to give unfair subsidies to industries or companies in those countries. Hence projects should be limited to infrastructure both physical infrastructure and improving knowledge and information. Direct investment subsidies are in great danger of providing unfair advantages to companies competing with other companies not having access to those subsidies.

3.3 Should there be concrete criteria [e.g. cost-per-unit performance, clean energy produced, energy saved, etc.] guiding the selection of projects?

Again effective and efficient use of funds as well as avoiding competitive distortions must be guiding principles. Sustainability of the project should equally be ensured.

4,500 character(s) maximum

3.4 How do you see the interaction of the modernisation fund with other sources of funding available for the same type of projects, in particular under the optional free allocation for modernisation of electricity generation (see section 4 below)? Would accumulation rules be appropriate?

4,500 character(s) maximum

3.5 Do you have views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. national climate programmes, and plans for renewable energy and energy efficiency)?

4,500 character(s) maximum

3.6 Should the level of funding be contingent on concrete performance criteria?

4,500 character(s) maximum

4. Free allocation to promote investments for modernising the energy sector

The conclusions of the European Council provide for the continuation after 2020 of the mechanism foreseen in Article 10c of the EU ETS Directive, which allows some Member States to opt to hand out free allowances to power plants in order to promote investments for modernising the energy sector. The current Article 10c modalities, including transparency, should be improved to promote investments modernising the energy sector, while avoiding distortions of the internal energy market.
With a view to reviewing and improving the current modalities as part of the revisions to the EU ETS Directive, the Commission seeks feedback on the following questions:

4.1 How can it be ensured that investments have an added value in terms of modernising the energy sector? Should there be common criteria for the selection of projects?

4,500 character(s) maximum

4.2 How do you see the interaction of the free allocation to energy sector with other sources of funding available for the same type of projects, e.g. EU co-financing that should be made

available for the projects of common interest under the 2030 climate and energy framework? Would accumulation rules be appropriate?
4,500 character(s) maximum

4.3 Do you have any views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. as regards improving transparency)?
4,500 character(s) maximum

4.4 The maximum amount of allowances handed out for free under this option is limited. Do you think eligible Member States should use the allowances for a period of time specified in advance (e.g. per year), or freely distribute them over the 2021-2030 period? (Please explain your motivation.)
4,500 character(s) maximum

4.5 Should there be priorities guiding the Member States in the selection of areas to be supported?
yes
no

4.6 How can improved transparency be ensured with regard to the selection and implementation of investments related to free allocation for modernisation of energy? In particular regarding the implementation of investments, should allowances be added to auctioning volumes after a certain time period has lapsed in case the investment is not carried out within the agreed timeframe?
4,500 character(s) maximum

5.SMEs / regulatory fees / other

In order to allow taking stock of the EU ETS aspects beyond those examined by the European Council, respondents are also invited to provide feedback on certain other questions.

The Commission ensures that better regulation principles govern all of the policy work, including that the specificities of small and medium sized enterprise (SMEs) are taken into due consideration. Member States can exclude certain small installations from the EU ETS in the current trading period (2013-2020) if taxation or other equivalent measures are in place that will cut their emissions. If such a possibility was to be reviewed, a legal basis would have to be created in the EU ETS Directive.

The accurate accounting of all emission allowances issued is assured by a single Union Registry with strong security measures. The operations were centralised in a single Registry operated by the Commission, following a revision of the ETS Directive in 2009. This has replaced Member States' national Registries. Despite the considerable resources from the EU budget required for maintaining the EU Registry, as does supporting work on auctioning, the Commission does not have the possibility to charge any fees. However, Member States administrators may still charge Registry fees to account holders administered by them. There are discrepancies in fees across different Member States.

5.1 Are there any EU ETS administrative requirements which you consider can be simplified? Do you see scope to reduce transaction costs, in particular for SMEs? If yes, please explain in detail.

4,500 character(s) maximum

For the monitoring of GHG emissions the application of standard values and the use of historic data should be accepted on a broader basis, especially also for major source streams of installations emitting high quantities of GHG.
The data required with respect to account holders and authorized representatives should as first priority be retrieved from national secure databases and only subsequently be provided by the account holders concerned. This will not only reduce the burden laid on the account holders and the institutions involved but also increase the availability and accuracy of the data involved.

5.2 Member States had the possibility to exclude small emitting installations from the EU ETS until 2020. Should this possibility be continued? If so, what should be the modalities for opt-out installations to contribute to emission reductions in a cost-effective and economically efficient manner? Should these be harmonised at EU level?

4,500 character(s) maximum

5.3 How do you rate the importance of a high level of security and user-friendliness of the Union Registry? Do you think the costs for providing these services should be covered via Registry fees?

4,500 character(s) maximum

5.4 Do you consider discrepancies in Registry fees in different Member States justified? Should Registry fees be aligned at EU level?

4,500 character(s) maximum

5.5 Under the current EU ETS Directive, at least 50% of the revenues generated from the auctioning of allowances should be used by Member States for climate-related purposes. For the calendar year 2013 Member States have reported to have used or to plan to use 87 % on average to support domestic investments in climate and energy. Do you consider the current provisions regarding the use of the revenues adequate for financing climate action? If not, please explain why?

4,500 character(s) maximum

6.General evaluation

6.1 How well do the objectives of the EU ETS Directive correspond to the EU climate policy objectives?
How well is the EU ETS Directive adapted to subsequent technological or scientific changes?

The EU ETS only distributes the share of that total amount foreseen for the ETS Sectors while the trade of allowances shall lead to a cost effective allocation of GHG reduction measures. The current CO2 Price on its low level compared to what is politically intended is not signal for inefficiency in achieving the GHG reduction target per se but moreover an indicator for market based instruments where market intervention is not necessary. Then this is what the EU ETS intends to achieve: Reaching the GHG reduction targets until 2050 at the most efficient cost level.

A global emissions trading system would be an effective and efficient market based instrument. It could provide climate protections at lowest costs by introducing a carbon factor in decisions on investments and efficiency improvements. Anyhow, given the geographic restriction of the EU ETS, it can not lead to the desired outcome owing to the clear and present danger of carbon leakage. To the contrary the additional costs due to ETS actual and expected harm competitiveness and the willingness to invest in the EU.
Furthermore the unilateral and absolute cap on emissions is limiting further industrial growth potentials.

6.2 What are the strengths and weaknesses of the EU ETS Directive? To what extent has the EU ETS Directive been successful in achieving its objectives to promote emission reductions in a cost-effective manner compared to alternatives, e.g. regulatory standards, taxation?

The EU ETS is principally successful in achieving the EU wide fixed climate targets that means to reduce the greenhouse gases until 2020 by 20 % in comparison to 1990. But on the medium term, the current design would lead to carbon leakage in energy intensive sectors. This is because the technical possibilities are disregarded while setting the caps. Therefore, the rules have urgently to be adapted, so that the most efficient installations due not face additional direct or indirect costs. Next step has to be to deliver an international agreement for climate protection that obliges the biggest emitters of greenhouse gases and competitors in third countries in a comparable and monitored manner.

,500 character(s) maximum

6.3 To what extent are the costs resulting from the implementation of the EU ETS Directive proportionate to the results/benefits that have been achieved, including secondary impacts on financing/support mechanisms for low carbon technologies, administrative cost, employment impacts etc.? If there are significant differences in costs (or benefits) between Member States, what is causing them?

4,500 character(s) maximum

6.4 How well does the EU ETS Directive fit with other relevant EU legislation?

4,500 character(s) maximum

To minimize the total costs, politicians should commit to rethink the EU targets and the EU climate change policy if a global level playing field is not achieved by 2020. To achieve further emissions reductions cost efficient the effort sharing between ETS and non-ETS sectors should be in line with the findings of the Impact Assessment for the Energy Efficiency Directive. According to which the remaining economic potential is much larger in other sectors than in industry. It is essential to readdress the burden sharing between these sectors when discussing the next phase of the EU ETS.
The objectives of EU ETS does not fit perfect to the whole EU climate policy. For example several Member States have their own climate targets which differ from the EU one. Moreover several regions in the Member States have their own climate targets. In order to have a consistent European framework in climate policy, a coordination between these different governmental levels is necessary.

6.5 What is the EU value-added of the EU ETS Directive? To what extent could the changes brought by the EU ETS Directive have been achieved by national measures only?

Until now the Directive gave rise to unequal treatment within the European Union. More needs to be done for the period 2021 until 2030.

From our point of view there is no value added of the EU ETS regarding emissions reductions which could not have been also achieved nationally. It is however generally preferably if such measures which impact companies profitability and competitiveness in a big way are introduced in a harmonized manner to reduce the danger of distortion. Still in a globalized world even the EU is not necessarily a big enough frame for such measures – competition distortions vis-à-vis third countries must be considered as well.

4,500 character(s) maximum

6.6 Do you have any other comment on the revision of the EU ETS Directive that you would like to share?

The current design is not suitable to support the 2030 objectives and is thus in need of revision (see above).

4,500 character(s) maximum